



भारत का राजपत्र

The Gazette of India

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 14] नई दिल्ली, शनिवार, जून 1, 2002/ ज्येष्ठ 11, 1924

No. 14] NEW DELHI, SATURDAY, JUNE 1, 2002/JYAISTHA 11, 1924

इस भाग में भिन्न पृष्ठ संख्या वी जाती है जिससे कि यह प्रलग संकलन के रूप में
रखा जा सके।

Separate Paging is given to this Part in order that it may be filed
as a separate compilation.

भाग II—खण्ड 3—उप-खण्ड (iii)
PART II—Section 3—Sub-section (iii)

केन्द्रीय प्रबिकारियों (संघ राज्य क्षेत्र प्रशासनों की छाड़क) द्वारा जारी किये गये आवेदा और प्रधिसूचनाएं
Orders and Notifications issued by Central Authorities (other than the Administrations of Union Territories)

भारत निर्वाचन आयोग
नई दिल्ली, 14 मई, 2002

आ.अ. 32.—लोक प्रतिनिधित्व प्रधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण में, निर्वाचन आयोग 1999 की निर्वाचन अर्जी म. 6 में चंडीगढ़ स्थित पंजाब एवं हरियाणा उच्च न्यायालय के तारीख 4 अप्रैल, 2002 के निर्णय को प्रदर्शना प्रकाशित करता है।

[निर्णय अंग्रेजी पाठ के माध्य प्रकाशित किया
गया है।]

[सं. 82/पंजाब-लो.स./6/99]
आदेश से,
चनश्याम खोहर, सचिव

ELECTION COMMISSION OF INDIA

New Delhi, the 14th May, 2002

O.N. 32.—In pursuance of Section 106 of the
Representation of the People Act, 1951 (43 of 1951),
the Election Commission hereby publishes judgement

dated 4th April, 2002 of the High Court of Punjab
and Haryana at Chandigarh in Election Petition No.
6 of 1999.

[Here Print the Judgement Attached]

IN THE HIGH COURT OF
PUNJAB AND HARYANA AT CHANDIGARH
CIVIL ORIGINAL SIDE

ELECTION PETITION NO. 6 OF 1999

Hans Raj son of Shri Mehnga Ram,
Resident of Village and Post Office Chak Sotrian,
Tehsil Jalalabad,
District Ferozepur. —Petitioner

Versus

1. Jora Singh son of Shri Chand Singh,
Resident of Village Suhelewala,
Tehsil Fazilka,
District Ferozepur.

2. Hukam Singh son of Shri Harnam Singh, Resident of Village Shahpur, Post Office Mukerian, Tehsil Fazilka, District Ferozepur. (Ex-parte vide order dated 17-1-2000).

3. Darshan Singh son of Shri Dayal Singh, Resident of Ward No. 21, Malout District, Muktsar. (Ex-parte vide order dated 19-5-2000).

Mohan Singh son of Shri Kasha Singh,

4. Resident of Village Chak Arriaianwala, Tehsil Jalalabad, District Ferozepur.

5. Mahi Ram son of Shri Mani Ram, Resident of Village Chhuriwala Dhanna, Tehsil Fazilka, District Ferozepur.

6. Manna son of Shri Mastta, Resident of Village Palla Magha, Tehsil and District Ferozepur. (Respondents No. 4 to 6 proceeded Ex-parte vide order dated 17-1-2000).

7. Amro Bibi wife of Shri Dayal Singh, Resident of Village Chak Arriaianwala, Tehsil Jalalabad, District Ferozepur. (Respondent No. 7 proceeded Ex-parte vide order dated 12-1-2000).

8. Gurdip Kaur wife of Shri Pritam Singh, Resident of Village Shikargarh, Tehsil Jalalabad, District Ferozepur. (Ex-parte vide order dated 17-1-2000).

9. Jaswant Singh son of Shri Kartar Singh, Resident of Village and Post Office Mutthi, Tehsil and District Ferozepur. (Respondent No. 9 proceeded Ex-parte vide order dated 12-1-2000).

10. Jagjit Singh son of Shri Prem Singh, Resident of Village Chak Suhelewala, Tehsil Jalalabad, District Ferozepur.

11. Tulsi Singh son of Shri Dewa Singh, Resident of Village Chak Suhelewala, Tehsil Jalalabad, District Ferozepur.

12. Pirthi Singh son of Shri Nidhan Singh, Resident of Village Chak Suhelewala, Tehsil Jalalabad District Ferozepur. (Respondent No. 10 to 12 proceeded Ex-parte vide order dated 17-1-2000).

13. Raj Baksh son of Shri Lachhman Singh, Resident of Village Arriaianwala, Tehsil Jalalabad, District Ferozepur.

14. Ram Lubhaya son of Shri Pyare Lal, Resident of Ward No. 13, Zira, District Ferozepur. (Ex-parte vide order dated 14-2-2000).

15. Om Parkash son of Fateh Chand, Resident of Gali No. 7, Abohar, District Ferozepur. (Respondent No. 15 proceeded Ex-parte vide order dated 12-1-2000).

16. Hukam Chand son of Shri Kashmir Chand, Resident of Village Chak Sottrian, Tehsil Jallalabad, District Ferozepur.

Respondents

Election Petition under Section 80/81 read with Section 100 and 101 of the Representation of People Act, 1951 praying that this Hon'ble Court may be pleased to allow the present election petition with costs and declare the election of Respondent No. 1 as void and disqualify Respondent No. 1 from contesting the elections for six years in accordance with law.

It is further prayed that recounting the ordered and the petitioner be declared duly elected member of the Parliament from 13 Ferozepur Parliamentary Constituency.

Dated the 4th April, 2002

PRESENT

THE HON'BLE MR. JUSTICE V. M. JAIN
For the Petitioner : Shri C. M. Munjal, Advocate.
For the Respondents : Shri Sukhbir Singh, Advocate
for Respondent No. 1.

ORDER

In this Election Petition, various issues were framed. Some of the issues were treated as preliminary issues and the case was fixed for arguments on these preliminary issues. Part arguments on these preliminary issues were heard. The case is at the stage of remaining arguments on the preliminary issues.

Learned counsel for the Election Petitioner has submitted before me that he has no instructions from the petitioner. He has submitted that he had duly informed the petitioner about the date fixed in this petition but no one has turned up to instruct him in this case. He has submitted that even on the previous date, petitioner had no instructed him inspite of the fact that he knew about the date of hearing fixed in this case.

As referred to above, the case is at the stage of remaining arguments on the preliminary issues framed in this case. Under Section 87 of the Representation of the People Act, 1951, an Election Petition is to be tried by this court, as nearly as possible, in accordance with the procedure applicable under the Code of Civil Procedure, 1908 to the trial of suits. In

Dr. P. Nalla Thampy Thera Vs. B. L. Shanker and others, AIR 1984, SC 135, it was held by the Hon'ble Supreme Court that an Election Petition is liable to be dismissed for default in situations covered by Order IX, or Order XVII of the Code and for its restoration an application under Rule 9, Order IX of the Code would be maintainable but such application for restoration can be filed only by the Election Petitioner and not by any respondent. The Hon'ble Supreme Court had placed reliance on the law laid down by the Apex Court, in an earlier judgment in Rajendra Kumari Bajpai Vs. Ram Adhar Yadav, (1976) 1 SCR 255. In the said authority, it was held by the Hon'ble Supreme Court that "dismissal of an Election Petition for default of appearance of the petitioner under the provisions of either O. IX or O. XVII of the Code would, therefore, be valid and would not be open to challenge on the ground that these provisions providing for dismissal of the Election Petition for default do not apply".

In the present case, as referred to above, even though Shri C. M. Munjal, Advocate is present on behalf of the election petitioner, yet he has pleaded no instructions from the petitioner. Neither the petitioner has personally come present nor any other counsel has come present on behalf of the petitioner to represent him in this petition. Considering the facts and circumstances of the case, in my opinion, the election petition is liable to be dismissed for non-prosecution.

In view of the above, the Election Petition is dismissed for non-prosecution. No costs.

April 4, 2002

V. M. JAIN,
Judge

[No. 82/PB-HP/6/99]

By Order,
GHANSHYAM KHOHAR, Secy.

